

HEADING OF DECISION IN CIVIL SUITS

IN THE COURT OF THE SENIOR CIVIL JUDGE, KARANJIA,
DISTRICT-MAYURBHANJ.

Present : Smt. Sudipta Dehury, LL.M.,
Senior Civil Judge, Karanjia.

Dated, this the 25th day of February, 2020

CIVIL SUIT NO. 17 of 2018

Sri Abhimanyu Prusty, aged about 44 years,
S/o- Late Bhikari Charan Prusty,
Resident of Vill-Ward no.14, Garhsahi,
P.O/P.S-Karanjia, Dist-Mayurbhanj, Odisha.

Proprietor-Master Mind Computer Centre (MCC),
Ward No.14, Ankura (Near Maa Mangala Mandir),
P.O/P.S-Karanjia, Dist-Mayurbhanj.

..... Plaintiff.

-: Versus :-

1. The Project Administrator (P.A.),
Integrated Tribal Development Agency (I.T.D.A.)
At/PO/PS-Karanjia, Dist-Mayurbhanj,
 2. The Collector, Mayurbhanj,
Representing Govt. of Odisha,
At/PO/PS-Baripada, Dist-Mayurbhanj
- Defendants.

Date of conclusion of Argument : 15.02.2020

Date of delivery of Judgment : 25.02.2020

Learned Advocate for the Plaintiff:- Sri Sanjay Kumar Sahoo & his associate.

Learned Advocate for the Defendants:- A.GP.

J U D G M E N T

This is a suit for realization of money to the extent of Rs.5,40,000/-
(Rupees five lakhs forty thousands) only.

2. The case of the plaintiff is that, the plaintiff is the Proprietor of Master Mind Computer Center situated at ward no. 14 of Karanjia. This institution was established in order to provide computer education to students. The Project Administer I.T.D.A., Karanjia i.e. Deft. no.1 vide letter no.817 on dt. 16.06.2015 recommended the plaintiff to provide P.G.D.C.A. Course to 30 number of S.T. students. Accordingly, the deft. no.1 agreed to pay Rs. 9,00,000/-(Rupees nine lakhs) only to the plaintiff. The computer course to the students was provided during the session July, 2015 to May, 2016. For this the deft. no.1 paid Rs.3,60,000/- (Rupees three lakhs sixty thousand) only which is 40% of the total amount on dt. 03.09.2015 through a cheque. After successful completion of course the institution issued certificate to the students and the copy of certificates were produced before the deft. no.1. subsequently the plaintiff approached deft. no.1 and requested him for release of the rest of the money in his favour. The plaintiff in the meantime has incurred loan from several persons to run his institute to provide computer education to students. The plaintiff also sent a notice through advocate on dt. 17.11.2016 demanding the payment of the rest of the money within two months. Instead of making of payment deft. no.1 replied to the notice of the plaintiff on dt. 15.12.2016 admitting the fact of payment of Rs. 3,60,000/-(Rupees three lakhs sixty thousand) only against the total amount of Rs.9,00,000/-(Rupees nine lakhs) only. As per the order of the Collector, Mayurbhanj the rapid monitoring squad comprises of District Level Officers visited the institution on dt. 09.02.2016 & 10.02.2016. During their visit they observed that the attendance of the trainee of the institution was very poor and for this reason the payment of balance amount amounting Rs.5,40,000/-(Rupees five lakhs forty thousand) only was held up till receipt of a clearance from the district administration, Mayurbhannj. As per the requirement the plaintiff subsequently complied with the formalities vide letter no. MCC/117/2016 on dt.30.12.2016. Again on dt. 25.01.2017 the plaintiff requested the deft. no.1 in order to make the rest of the payment to deft. no.1. However deft. no.1 did not make any payment and informed him that

without getting any instruction of district authority, they cannot make the payment. The cause of action of this suit arose on dt. 25.01.2017 when the plaintiff realised that the deft. no.1 has not received his legitimate claim as mentioned. So this present suit is filed by the plaintiff with a payer for realization of money of Rs.5,40,000/-(Rupees five lakhs forty thousand) only from the deft. no.1 along with other reliefs.

3. The defendant no.1 appeared and filed the W.S. The case of the defendant is that I.T.D.A. is an institution of Tribal development under scheme of this State. It has sponsored the expenses for computer training course (PGDCA) of 30 number of unemployed S.T. youth. The duration of course is for a period of one year. In order to provide this course to the students, Rs.3,60,000/- (Rupees three lakhs sixty thousand) only was released as advance to the plaintiff i.e. proprietor of Master Mind Computer Center vide cheque No. 693067 on dt. 03.09.2015. The defendant no.1 has sponsored the course of the students for the development of S.T. community. On dt.09.12.2016 the rapid monitoring squad comprising of District Level Officers had visited the institution of the plaintiffs. During their visit they found that the institution does not have sufficient infrastructure and the attendance of the trainee students was also very poor. The plaintiff's institution also failed to provide class room and hostel facilities to the students, for this reason the attendance of the trainees in the institution was poor. So the payment of rest of the amount i.e. 5,40,000/- (Rupees five lakhs forty thousand) only was held up by the district administration. The plaintiff has submitted photo copy of certificate of proficiency in favour of the 29 number of students vide MCC/116/2016 on dt. 12.07.2015. There is no knowledge about the student to whom certificates were issued which creates a doubt as to whether the certificate were issued to the candidate or not. No register of the trainer was also maintained in the institution and it creates doubt about the existence of the institution as well. Further the plaintiff is claiming cost of studies 30 candidates in stead of 29 candidates. The deft. no.1 on the other hand, has observed his right for recovery of the amount

which was already paid as advance to the institution i.e. Master Mind Computer Center, Karanjia as the institution failed to provide proper training to the student as per guidelines.

4. From the aforesaid pleadings and counter pleadings, the following issues are settled.

- (i) Whether the suit is maintainable in its present form ?
- (ii) Whether the suit is barred by law of limitation or any other law ?
- (iii) Whether there is any cause of action to file the suit ?
- (iv) Whether there was any agreement or contract between the plaintiff and the defendants regarding payment of Rs.5,40,000/-(Rupees five lakhs forty thousands) only as cost of imparting training to 30 member of S.T. unemployed youth ?
- (v) Whether the plaintiff has proved that he has complied the order issued by the defendants ?
- (vi) Whether the plaintiff has proved the fact that he has received the extent of money i.e. Rs.3,60,000/-(Rupees three lakhs sixty thousands) only as part compliance of the assignment for which he was selected by the defendants ?
- (vii) Whether the plaintiff is entitled for getting an amount of Rs.5,40,000/-(Rupees five lakhs forty thousands) only from the defendants for successful accomplishment of the assignment given by the defendants ?
- (viii) Whether the plaintiff is entitled to any other relief ?

5. In order to establish the pleadings, three witnesses are being examined on behalf of the plaintiff and fourteen types of documents including the letter issued by I.T.D.A., Karanjia compliance report by the plaintiff, notice of the advocate, compliance letter submitted to I.T.D.A., Karanjia, staff register from 2015, student register maintained by MCC in 2015 are filed and marked as exhibited without any objection.

On the other hand two witness are being examined on behalf of the defendants and also the filed visit report, copy of order of collector, Mayurbhanj

issued on dt. 06.02.2019 are marked as exhibit on behalf of the defendants.

:: FINDINGS ::

6. Issue no. I, II & III

- (i) Whether the suit is maintainable in its present form ?
- (ii) Whether the suit is barred by law of limitation or any other law ?
- (iii) Whether there is any cause of action to file the suit ?

For the sake of convenience the issue No. I, II & III are discussed jointly. The present suit is filed with a prayer for realisation of money to the tune of Rs.5,40,000/-(Rupees five lakhs forty thousands) only. The case of the plaintiff is that as per the direction of the deft. No.1 he imparted training to 30 (thirty) number of students. Accordingly, towards its cost he has also received Rs.3,60,000/-(Rupees three lakhs sixty thousands) only in the first installment. But now the defendant no.1 is not paying the rest amount i.e. Rs.5,40,000/-(Rupees five lakhs forty thousands) only though the training of the said students is already completed. From the pleadings of the parties it seems that the plaintiff is claiming the money basing on an agreement between the parties to the suit. On 15.12.2016 the plaintiff issued a notice to the deft. No.1 to make the payment which was due upon him as per the contract. After receipt of the said notice, the deft. No.1 did not make the payment so the cause of action arose to file the suit. On the other hand, the suit is triable under the territorial jurisdiction of this court and otherwise the suit also not barred by law of limitation. Hence, the above issues are answered.

7. Issue No. IV

- (iv) Whether there was any agreement or contract between the plaintiff and the defendants regarding payment of Rs.5,40,000/-(Rupees five lakhs forty thousands) only as cost of imparting training to 30 member of S.T. unemployed youth ?

From the pleadings of the parties, it is seen that there was an agreement between the parties basing on which the plaintiff is claiming the relief. As per

the case of the plaintiff, deft. No.1 i.e. P.A.I.T.D.A., Karanjia vide letter no.817 on dt. 16.06.2015 recommended the names of 30 number of S.T. students in order to provide them P.G.D.C.A. Course in between June, 2015 to May 2016. In support of its pleadings the plaintiff has filed the copy of letter received by him from P.A.I.T.D.A., Karanjia. It is marked as Ext.1 on behalf of the plaintiff. On perusal of this letter, it is found that by this letter P.A.I.T.D.A., Karanjia had forwarded a list of 30 numbers of unemployed S.T. youth to provide them P.G.D.C.A. training in the institute of Master Mind Computer Center, Karanjia during the year 2015-16 for a period of one year. He further stated to provide training with all facilities as per the instruction of the Govt. Accordingly, the fund in first installment shall be placed and only after receipt of letter regarding admission particulars of the students the second installment will be released after submission of utilization certificate of the first installment. From the contents of the letter, it is clear that this is an offer made by the P.A.I.T.D.A., Karanjia to the principal of Master Mind Computer Center, Karanjia. There it was requested to submit the detail regarding course of the students and the fee structure. However it is not clear whether the computer institution had accepted the said offer and accordingly, has provided the detail course of students and fee structure to the P.A.I.T.D.A., Karanjia. So in absence of any acceptance of the offer there is no agreement between the parties so from the Ext.1. It is clear that this is only an offer to provide P.G.D.C.A. Course of duration of one year to 30 number of students to the Master Mind Computer Center, Karanjia. On the other hand, there is also no clear mention about payment of Rs. Rs.3,60,000/-(Rupees three lakhs sixty thousands) only as the first installment and Rs.5,40,000/-(Rupees five lakhs forty thousands) only as the second installment to the computer center. So from the aforesaid discussion it is clear that though the offer was made by the P.A.I.T.D.A., Karanjia but whether the same accepted or not is not clear. The contents of Ext.1 specifically informed about providing P.G.D.C.A. Course to 30 numbers of S.T. unemployed youth, but there is no mention as to who were those 30 number of students whose

names are being nominated by the P.A.I.T.D.A. So it is found that there was no agreement or contract between to parties for the alleged assignment. Hence, the issue is answered accordingly.

8. **Issue No.V**

(v) Whether the plaintiff has proved that he has complied the order issued by the defendants ?

Again the plaintiff is claiming the second installment money after it complied to the order issued by Deft. No.1. As per the instruction imparted by deft. No.1 vide Ext.1 P.A.I.T.D.A., Karanjia had offered to make the payment of first installment in order to provide facilities for the computer course as per the instruction of Govt. Accordingly, the computer institution was to place the receipt of report regarding admission towards under Annexure-I before the P.A.I.T.D.A., Karanjia. The case of the plaintiff is also silent whether they had placed the admission particulars as per the Annexure-I. The second installment was to be released only after submission of utilisation certificate of first installment. In this case the plaintiff again failed to file the utilisation certificate of first installment money. So in this situation it is impossible on the part of the court to verify whether the plaintiff is entitled to get the second installment as no document in that regard is filed for verification. Hence, the issue is answered.

9. **Issue No. VI**

(vi) Whether the plaintiff has proved the fact that he has received the extent of money i.e. Rs.3,60,000/-(Rupees three lakhs sixty thousands) only as part compliance of the assignment for which he was selected by the defendants ?

The plaintiff has pleaded that he has received Rs. 3,60,000/-(Rupees three lakhs sixty thousands) only towards first installment. Though from the contents of Ext.6 it is seen that P.A.I.T.D.A., had offered to Master Mind Computer Center, Karanjia to impart P.G.D.C.A., training for one year to 30 candidates and as per the guideline of Govt. 40 % advance cost of training was released vide cheque no. 693067 on dt. 03.09.2015 i.e. Rs. 3,60,000/-(Rupees

three lakhs sixty thousands) only. This money was paid in advance against the total cost of training. However whether the money is received for part compliance of the assignment for which the computer institution was selected is not clear. The pleadings of the plaintiff with respect to the fact must be specific and mere admission by the deft. No.1 in the form of a reply to the notice U/s.80 of CPC is not sufficient enough. As per contents of Ext.6 the money of Rs. Rs. 3,60,000/-(Rupees three lakhs sixty thousands) only was paid in advance for the cost of training. However this act is performed by the deft. No.1. On the other hand, the plaintiff has not provided any utilisation certificate of the first installment as per the requirement of the letter no. 817 on dt. 16.06.2015 of P.A.I.T.D.A., Karanjia. Hence, it is seen that the plaintiff has not performed his part of contract. Hence, the issue is answered.

10. **Issue No. VII & VIII**

(vii) Whether the plaintiff is entitled for getting an amount of Rs.5,40,000/- (Rupees five lakhs forty thousands) only from the defendants for successful accomplishment of the assignment given by the defendants ?

(viii) Whether the plaintiff is entitled to any other relief ?

The plaintiff has filed this suit claiming the money of Rs. 5,40,000/- (Rupees five lakhs forty thousands) only for the second installment for imparting training to 30 S.T. students as per the direction of P.A.I.T.D.A., Karanjia. In this case though the plaintiff has filed a register of attendance of 30 students vide Ext.10, but it is not clear whether the name of the students found place in the register belong to S.T. category and whether these names are recommended by the P.A.I.T.D.A., Karanjia. On the other hand, there is no sufficient documentary proof to verify whether these students were provided with P.G.D.C.A. course for one year as per the norms of the Govt. On the other hand, it is found from the evidence from the Annexe-I that during visit by Rapid Monitoring of Placement linked employability training (PLET) skill development training programmes implemented by I.T.D.As., Mayurbhanj and O.S.F.D.C., Mayurbhanj vide Ext.4 & 5, it is found that the institution was

providing training there with only nine computers without any printer and the attendance of students was poor. So it is not clear whether the computer institution has provided any training to unemployed S.T. youth as per the prescribed norms of the I.T.D.T.A., Karanjia. It is also not clear whether the alleged 30 number of students belong to S.T. category and whether they were unemployed youth as well. The Court has no scope to verify these facts as no document relating to these fact are provided for verification. On the other hand, the plaintiff has completely failed to establish its source of claim. On the other hand, the plaintiff has completely failed to establish the nature of claim which are based on the terms and conditions of the agreement. Accordingly, the plaintiff is not entitled to any other reliefs as well. Hence, these issues are answered.

:: ORDER ::

The suit be and the same is dismissed on contest against the defendants, but without cost.

Advocates fee for contested scale.

Pronounced the Judgment in the open Court today this the 25th day of February, 2020 under my hand and seal of this Court.

Dictated & corrected by me.

Sr. Civil Judge, Karanjia.

Sr. Civil Judge, Karanjia.

List of witnesses examined on behalf of the Plaintiff.

P.W.1 :Abhimanyu Prusty
P.W.2 :Bhimasen Patra
P.W.3 : Tapan Kumar Nayak

List of witnesses examined on behalf of the Defendants.

D.W.1 :Rabindra Kumar Naik
D.W.2 : Dharmendra Malik

List of documents filed on behalf of the Plaintiff.

Ext.1 :Letter no.817 dt.16.06.2015 issued by P.A. I.T.D.A., Karanjia
Ext.2 :Compliance report submitted by the plaintiff to the P.A.
I.T.D.A., Karanjia.
Ext.3 : Copy of advocate notice dt. 17.11.2016.

- Ext.4 : Registration report supplied by the postal authority.
Ext.5 :Postal A.D.
Ext.6 :Reply received from P.A. I.T.D.A., Karanjia.
Ext.7 :Compliance letter submitted to the P.A. I.T.D.A., Karanjia.
Ext.8 :Copy of notice issued to the deft. no.2 U/s.80 of C.P.C.
Ext.9 : Staff register for the year 2015.
Ext.10 :Student register maintained by MCC, in the year 2015.
Ext.11 :Register showing issuance of certificate.
Ext.12 to 12/p : Photographs
Ext.13 :Appointment letter
Ext.14 :Admission register.
List of documents filed on behalf of the defendants.
Ext.A :Xerox copy of cheque issued by P.A.I.T.D.A. of Karanjia

Senior Civil Judge, Karanjia.